IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6/8/2004

CORAM

THE HONOURABLE MR. JUSTICE A.K. RAJAN

W.P.No. 21527 of 2004
and
WPMP No.26041 of 2004
and
WVMP No.1335 of 2004

Tamil Nadu Medical Council
rep by its President
Dr. K.R.Balasubramaniam
D Block, TNHB Complex
Jawaharlal Nehru Salai
Vadapalani
Chennai 26. .. Petitioner

-Vs-

1. The Chairman
Central Board of Film Certification
91 E, Walkeshwar Road
Mumbai 6.

2. The Central Board of Film Certification
rep by its Regional Officer
Shastri Bhavan
Haddows Road
Chennai 6.

3. The Gemini Film Circuit
The Producer
''Vasool Raja, M.B.B.S."
601, Anna Salai,Chennai 6. .. Respondents

!For Petitioner .. Mr. T.R.Rajagopalan, SC
for Mr. Veera Kathiravan
^For Respondent 1 & 2 .. Mr. S.Manikumar, SCGSC
For R.3 .. Party-in-person

Writ petition filed under Article 226 of the Constitution of
India praying for issuance of a Writ of Mandamus as stated therein.

:ORDER
The prayer in the writ petition is to issue a Writ of Mandamus forbearing respondents 1 and 2, their men, agents, subordinates or any other person assigned on their behalf, from certifying any film, in favour of the third respondent or any other person, in the name and title of "Vasool Raja, M.B.B.S.".

2. WPMP No.26041 of 2004 is for an order of interim injunction not to certify the film. This Court granted interim injunction and ordered notice to the respondents. The third respondent has filed WVMP No.1335 of 2004 for vacating the interim injunction. Since the prayer in the main writ petition as well as the WPMP is one and the same, orders are passed in the writ petition itself.

3. The writ petition has been filed by Tamil Nadu Medical Council, which is a statutory body created under Tamil Nadu Medical Registration Act, 1914. This Act was made for the Registration of Medical Practitioners in Tamil Nadu and also to guide the Medical Practitioners in their professional conduct, and the main object is to safeguard the interest of the medical profession. The petitioners received complaints against the third respondent that a film called "Vasool Raja, M.B.B.S." has been produced and the main theme of the film, as published in the news papers, is about a Medical Practitioner. The title creates disrespect to the Medical Practitioners in general; the general public are likely to be misled. The petitioner also received complaints from Indian Medical Association that the film causes disrespect to the medical fraternity. It is understood that a number of complaints have been made to the Censor Board; they are not performing their functions properly and there is no response from respondents 1 and 2 for the representations made by the Medical Practitioners and Indian Medical Association. The petitioner/Co uncil is a statutory body safe guarding the interest of Medical Practitioners and it is seeking for a suitable remedy to prohibit the film being certified with the title of "Vasool Raja, M.B.B.S.". The petitioner herein framed regulations called "Tamil Nadu Medical Council Code of Medical Ethics (Professional Conduct, Etiquette and Ethics) Regulations, 2003". According to the Regulations, the members of the medical profession shall maintain dignity, since they are providing service to the humanity. When that be so, if the film with the title "Vasool Raja, M.B.B.S." is released, it will cause harm to the society as a whole. The very term "Vasool Raja, M.B.B.S." gives an impression to the general public that the Medical Practitioners are only interested in collecting money from their patients and not bothered about the Medical Ethics. If the title "Vasool Raja, M.B.B.S." is translated in English, it will read as "King of Collection". The words "Vasool Raja" in Tamil are not a name, but it only means "a man, who heeds collection of money by hook or crook, and, who is greedy of money and whose intention is only to earn money by unlawful means". The film is offensive and hurting the entire community of Medical Practitioners, who have obtained M.B.B.S. Degree. It is also likely to cause an unbearable harm to the students, who are undergoing MBBS Course. The title is damaging in nature and it degrades the degree awarded by Dr. MGR Medical University. The Indian Medical Association had also sent notice to the third

respondent and the third respondent has replied that it is a Tamil version of a Hindi film "Munna Bai M.B.B.S.", and it cannot be termed as improper. The stand of the third respondent is not correct, ' Munna' is a pet name of a man, and literally it would mean "small boy". The petitioner is not taking a film on any individual or any matters related to an individual. The title gives an impression that the very purpose of getting decree is for the purpose of collecting money using the degree. The title is scandalous in nature and therefore it should not be certified by respondents 1 and 2. The usage of degree in the title is per se scandalous and hence it is impermissible. The general public are solely depending on the doctors for all of their ailments and if the title is allowed, it will create a disharmony in the relationship of Doctor and patients. The third respondent, who produces the film for his success and monetary benefit, cannot have the title, which will hurt the feelings of the entire Medical Practitioners in this country. The title will give an impression that the doctors are only for money and they serve the people only for money. The title will lower the image of the doctors in the mind of the general public. The third respondent has no ethics whatsoever in naming his film as "Vasool Raja, M.B.B.S." and this unethical practice of the producer should be depreciated. Respondents 1 and 2 have not taken any action so far on the complaints given by the petitioner. The usage of the degree is an offence under the Indian Medical Degree Act, 1 916. Hence, this petition.

4. The third respondent has filed a counter stating as follows:
The writ petition is devoid of merits and the same is the result of unnecessary apprehensions of a few of Medical Practitioners. The third respondent has not committed any mistake and the petitioner is not an authority to entertain any complaint against this respondent. It was informed time and again to the petitioner and the other Office Bearers of the Association that the main theme of the film is not about a Medical Practitioner. When the Office Bearers expressed their apprehension about the possible story line of film 'Ramana', this respondent assured them that the present film is not criticising Medical Practitioners or medical profession. The main theme of the picture is that a local Dadha, by name, Vasool raja, wants to become an M.B. B.S. Graduate. The life of an elderly student in the campus of a Medical College is the main line of the story; it is only a remake of a Hindi film title "Munna Bhai M.B.B.S.". The Code of Conduct for Medical Practitioners cannot be considered in this case. Film is a fiction and it cannot be related to real life situations. Entertainment sector has always enjoyed a privilege, even when a fair and reasonable criticism is a story line. The serials like "Yes Minister" have been taken in the right perspective. If the people are guided to think in terms of the apprehensions of the petitioner, there shall be no scope for humour and people cannot relax or entertain themselves. There is no reason for the apprehension of the petitioner; it is nothing but an act of publicity for the petitioner. In this case, 'Vasool raja' is studying M.B.B.S. course and hence the title. The contention that 'Munna Bhai' in Hindi is a pet name and its literal Tamil translation is 'small boy' is not correct. 'Munna Bhai' would only refer to a local dadha in Hindi. This title would not suggest that Medical Practitioners are greedy persons. It is a hilarious and complete account of a 'Vasool Raja' attempting to become an M.B.B.S. degree holder, hence the title cannot be

otherwise. It is not correct to state that the title suggests that the doctors are interested only in money. The certification of films is governed under the Cinematograph Act, 1952. The Censor Board is empowered to certify films under Section 5-A of the Act. Section 5-B lays down the principles for guidance in certifying films. No where in the Act there is a provision to refuse certification simply on the ground of apprehensions, presumptions and surmises. Without viewing the picture, no order of refusal can be granted. The interim Order already passed causing great prejudice to the persons involved in the picture. The film is scheduled to be released on 12th of August, 2004 and all the poster and publicity materials have already been printed, and the trailer is already on the television channels. If the title is changed, it will cause loss and hardship to this respondent. Therefore, the writ petition is liable to be dismissed.

5. Mr. T.R. Rajagopalan, learned Senior Counsel for the petitioner, submitted that under Section 5-B of the Cinematograph Act, "A film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of Court or is likely to incite the commission of any offence". Therefore, respondents 1 and 2 cannot issue Certificate for public exhibition with this title, since the title amounts to defamation of the entire Medical Practitioners. Therefore, the petitioner is entitled for the prayer in the writ petition.

6. The learned Senior Counsel for the petitioner further contended that Regulation 6 of the Tamil Nadu Medical Council Code of medical Ethics (Professional Conduct, Etiquette and Ethics) Regulations, 200 3, framed by the Tamil Nadu Medical Council, provides for the maintenance of the dignity of the profession and the etiquette to be followed by the professionals. Therefore, this code is binding and is being followed by the Medical Practitioners. Therefore, it cannot be said that all Medical Practitioners are interested only in collecting money from the public, who come for treatment, and they are not service oriented, and thus the title is per se defamative.

7. The learned Senior Counsel for the petitioner also contended that the petitioner Council has no objection for using the word 'Vasool Raja' independently or using the degree with any other individual names, just like 'Vaijayanthi, I.P.S.', 'Parvathi, B.A.' and 'Archana, I.A.S.'. When the degree is used along with the individual's name, it would convey that the film is about the conduct of a particular individual. But using of both the words 'Vasool Raja' and 'M.B.B.S.' together, it gives an impression that all the M.B.B.S. degree holders are interested only in collecting the monies and nothing else. It characterises the entire medical profession as unethical and the Medical Practitioners are interested only in getting the money. Therefore, this title amounts to defamatory and hence the title "Vasool Raja, M.B.B.S." cannot be used by the third respondent and hence respondents 1 and 2 shall not certify the film for public exhibition.

8. The third respondent appeared through a representative and submitted that the story of this film is about a person, who was originally a collection agent and later on a medical student. The title is not defamatory and the film is in no way defame any individual doctor much less any profession as a whole. Further, Indian Medical Association has also filed a suit in O.S.No.3587 of 2004 in the City Civil Court, Chennai for the very same relief. The petitioner can only approach the civil court for any remedy, and it cannot approach this Court for Writ of Mandamus. Hence, the petition is liable to be dismissed.

9. The contention of the petitioner is that the title of the film "Vasool Raja, M.B.B.S." is per se defamatory. According to the petitioner, the word 'vasool' in Tamil means "collection of money by hook or crook" as seen from the affidavit filed along with the petition. But, this conclusion of the petitioner is not correct. The word ' vasool' in Tamil refers to "collection of dues". Banks and private individuals employ persons to collect the dues from their customers; they are collection agents. Therefore, the word 'vasool' means only " collection of dues". This word, by no stretch of imagination, can be said to connote "collection by hook or crook". The word 'vasool' does not also mean collection by threat or by unreasonable means. Literally 'vasool' means only collection of dues. When it is used along with the word 'Raja', it means that, that person is an expert in collection of the dues. Therefore, even literal meaning of the words ' Vasool Raja' only mean an expert in collecting the dues. It does not connote collection by illegal means or by threat or by force. The contention that 'vasool Raja' means collection by hook or crook is not correct, and is straining the language too much.

10. The Court can interfere only when it comes to the conclusion that the title is defamatory in nature. Whether the title is defamatory or not, can be decided only on the facts of the particular case. To arrive at a decision on the facts, the petitioner must approach only a Civil Court by way of a civil suit. For that purpose, the extra ordinary remedy under Art.226 of the Constitution of India cannot be resorted to. It is a well established principle that this Court while exercising the power under Article 226 of the Constitution of India cannot go into the disputed questions of facts. Whether the film " Vasool Raja, M.B.B.S." is defamatory, is a disputed question of fact. That cannot be determined by the Court while exercising the power under Article 226 of the Constitution of India. Therefore, the petitioner ought to have filed a civil suit for this relief. In fact, Indian Medical Association has filed a civil suit in the City Civil Court, Chennai on 26.7.2004 for the very same relief.

11. The contention of the petitioner that the title is per se defamatory is not acceptable. Just as the Hindi version, the words " Vasool Raja" may be the pet name of an individual. The title cannot be considered as per se defamatory. The title does not suggest that the entire profession of Medical Practitioners as collection agents. The words "Vasool Raja, M.B.B.S." is in singular. It may at the most mean an individual. The petitioner has no objection to add the suffix 'Vasool Raja' to an individual like "Kamalhasan, M.B.B.S." Therefore, it is not possible to hold that the title of the film is

per se defamatory.

12. As per Section 5-B of the Cinematograph Act, the Censor Board, which views films for certification, may not issue certificate for public exhibition if in its view the film is defamatory. If respondents 1 and 2 come to the conclusion that the film as a whole is defamatory, they may refuse to grant certificate.

13. In order to direct respondents 1 and 2 not to issue a certificate for public exhibition, this Court must satisfy itself that the film as a whole is defamatory or the title is per se defamatory. As stated above, the title is not per se defamatory. Whether the film as a whole is defamatory is a disputed question of fact; it is not possible for the writ Court to decide that. This Court therefore cannot direct respondents 1 and 2 not to issue a certificate for public exhibition. Therefore the prayer in the writ petition cannot be granted. Hence, the writ petition itself is dismissed. Consequently, the interim injunction granted in WPMP No.26041 of 2004 is set aside; and WVMP No.1335 of 2004 is allowed.

Index : Yes
Internet: Yes

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To

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rep by its Regional Officer
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